

Senate Bill No. 941

CHAPTER 433

An act to add Article 1.4 (commencing with Section 678) to Chapter 5 of Division 3 of the Harbors and Navigation Code, relating to vessels.

[Approved by Governor September 18, 2014. Filed with
Secretary of State September 18, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 941, Monning. Vessel operator cards.

(1) Existing law prohibits the operation or navigation of a for-hire vessel, as defined, in the waters of California while carrying passengers, except by a person who holds a valid operator's license issued by the Division of Boating and Waterways. Under existing law, a person applying for an operator's license is required to undergo an examination, that may include, among other things, an inspection of the for-hire vessel.

Existing law requires the division to approve boating safety courses and personal watercraft education courses, as specified.

This bill would prohibit the operation of a vessel that is propelled by an engine in the waters of the state except by a person who is in possession of a valid vessel operator card developed and issued by the division, and would impose that prohibition on persons pursuant to a specified schedule. The bill would exempt certain persons from that requirement, as specified.

The bill would require the division, on or before January 1, 2018, to develop vessel operator cards and issue a vessel operator card to a person who provides the division with proof that the person has passed a vessel operator examination and would authorize the division to develop an examination. The bill would require the division to provide links to approved examinations on its Internet Web site. The bill would require the division to charge specified fees for those cards, would establish the Vessel Operator Certification Account in the Harbors and Watercraft Revolving Fund, and would require the fees to be deposited in that account. The bill would authorize the division to expend the moneys in the account, upon appropriation by the Legislature, for purposes of the vessel operator card program.

The bill would require an amount not to exceed \$4,000,000 to be transferred, upon appropriation in the annual Budget Act, from the Harbors and Watercraft Revolving Fund to the Vessel Operator Certification Account in the form of a loan to be used by the division to develop and establish the program. The bill would require the division to repay the loan from fees received from the issuance of vessel operator cards within 8 years of the effective date of this act.

The bill would require the division on or before April 1, 2019, and annually thereafter, to prepare a report that contains specified information, including, among other things, the total number of vessel operator cards issued and the number of violations reported to the division. The bill would also require the division on or before April 1, 2023, and again on April 1, 2028, to post on its Internet Web site specified recommendations relating to the program.

The bill would provide that a violation of the bill's provisions is an infraction, and would require a court to order a person who violates those provisions to complete and pass a boating safety course approved by the division. By creating a new crime, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Article 1.4 (commencing with Section 678) is added to Chapter 5 of Division 3 of the Harbors and Navigation Code, to read:

Article 1.4. Vessel Operators' Education and Certification Cards

678. (a) On or before January 1, 2018, the division shall develop a vessel operator card to be issued pursuant to this article.

(b) The division shall issue, or cause to be issued, a vessel operator card to a person who provides the division with proof that the person has passed a vessel operator examination approved by the division or a vessel operator course that includes an examination and is approved by the division pursuant to Section 668.1 or 668.3.

(c) A vessel operator card shall be valid for the life of the person to whom it is issued.

678.3. (a) (1) The division shall determine the fees required under this section in amounts sufficient to cover the reasonable costs of the development, establishment, and operation of the program. The fees shall not exceed those costs.

(2) The division shall charge a fee not to exceed thirty dollars (\$30) for the initial vessel operator card issued pursuant to subdivision (b) of Section 678.

(3) The division shall charge a fee not to exceed ten dollars (\$10) for a duplicate vessel operator card issued pursuant to subdivision (b) of Section 678.

(b) In determining the amount of the fees imposed pursuant to this section, the division shall establish, and consult with, a technical advisory group

consisting of interested persons, including, but not limited to, representatives of the boating community. The director shall appoint the members of the advisory group.

(c) The fees collected pursuant to this section shall be deposited in the Vessel Operator Certification Account, which is hereby established within the Harbors and Watercraft Revolving Fund.

(d) The division may expend the moneys in the Vessel Operator Certification Account, upon appropriation by the Legislature, for purposes of implementing this article.

678.5. (a) The division may develop and provide a vessel operator examination on the division's Internet Web site. The division shall provide links from the division's Internet Web site to other vessel operator examinations approved by the division that are available through a provider whose course has been approved by the National Association of State Boating Law Administrators.

(b) If the division contracts for the provision of vessel operator examination services with test vendors, the division shall conduct a formal competitive bid process and shall contract with more than one vendor for those services.

(c) A vessel operator examination developed or approved by the division shall be consistent with the National Association of State Boating Law Administrators' National Boating Education Standards, as applicable to basic vessel operations, rules of navigation, and boating safety only.

678.7. (a) An amount not to exceed four million dollars (\$4,000,000) shall, upon appropriation in the annual Budget Act, be transferred from the Harbors and Watercraft Revolving Fund to the Vessel Operator Certification Account in the form of a loan to be used by the division to develop and establish the program under this article.

(b) The division shall repay the loan described in subdivision (a) from fees received pursuant to Section 678.3 within eight years of the effective date of this article.

(c) If the division has not repaid the loan within the time period specified in subdivision (b), the division shall notify the Joint Legislative Budget Committee.

(d) The loan shall not impair the intended expenditure purposes of the Harbors and Watercraft Revolving Fund.

678.9. (a) On or before April 1, 2019, and on or before April 1 annually thereafter, the division shall prepare a report that includes all of the following information with respect to the prior calendar year:

(1) The total number of vessel operator cards issued pursuant to this article.

(2) The fees collected, and the costs incurred, by the division pursuant to this article.

(3) The correlation between vessel operator cards issued and the number of accidents, injuries, and fatalities related to the operation of vessels in the state that are reported pursuant to Section 656.

(4) The number of violations of this article reported to the division.

(b) The report shall be posted on the division's Internet Web site.

(c) On or before April 1, 2023, and again on April 1, 2028, the report prepared by the division and posted on its Internet Web site shall include recommendations, developed by the division, in consultation with the technical advisory group established pursuant to subdivision (b) of Section 678.3, relating to any program changes to improve boater safety in California or, alternatively, reasons why the program should not be continued.

678.11. (a) Subject to the schedule in subdivision (b), a person shall not operate on waters subject to the jurisdiction of the state a vessel that is propelled by an engine, regardless of whether the engine is the principal source of propulsion, unless the person has in his or her possession a vessel operator card issued by the division pursuant to subdivision (b) of Section 678.

(b) A person is subject to subdivision (a) according to the following schedule:

- (1) On and after January 1, 2018: A person 20 years of age or younger.
- (2) On and after January 1, 2019: A person 25 years of age or younger.
- (3) On and after January 1, 2020: A person 35 years of age or younger.
- (4) On and after January 1, 2021: A person 40 years of age or younger.
- (5) On and after January 1, 2022: A person 45 years of age or younger.
- (6) On and after January 1, 2023: A person 50 years of age or younger.
- (7) On and after January 1, 2024: A person 60 years of age or younger.
- (8) On and after January 1, 2025: All persons, regardless of age.

(c) This section does not apply to any of the following:

(1) A person who is a resident of another state or a foreign country who is operating a vessel and meets either of the following requirements:

(A) The person is temporarily using the waters of this state for a period not to exceed 60 days, and meets the applicable requirements, if any, of his or her state of residency.

(B) The person is temporarily using the waters of this state for a period not to exceed 90 days, and meets the applicable requirements, if any, of his or her country of residency.

(2) A person operating a vessel while under the direct supervision of a person 18 years of age or older who is in possession of a vessel operator card issued pursuant to subdivision (b) of Section 678 or who is not required to possess a vessel operator card pursuant to paragraph (6).

(3) A person operating a vessel in an organized regatta or vessel race, or water ski race.

(4) A person operating a rental vessel.

(5) A person who is in possession of a current commercial fishing license.

(6) A person who is in possession of a valid marine operator license, for the waters upon which the licensee is operating, issued by the United States Coast Guard, or who is in possession of a valid certificate issued pursuant to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended.

(7) A person who has successfully completed a boating course approved by the Commission on Peace Officer Standards and Training.

678.15. (a) A violation of this article is an infraction.

(b) A person convicted of an infraction for a violation of this article shall be punished as follows:

(1) For an initial conviction, by a fine of not more than one hundred dollars (\$100).

(2) For a second conviction, by a fine of not more than two hundred fifty dollars (\$250).

(3) For a third or subsequent conviction, by a fine of not more than five hundred dollars (\$500).

(c) A fine imposed on a vessel operator pursuant to subdivision (b) shall be waived, if the vessel operator provides proof that he or she had a valid vessel operator card at the time of the citation.

(d) (1) In addition to the fines imposed by subdivision (b), the court shall order a person convicted of violating this article to complete and pass a boating safety course approved by the division pursuant to Section 668.3.

(2) If a person who is ordered to complete and pass a boating safety course pursuant to paragraph (1) is 18 years of age or younger, the court may require that person to obtain the consent of a parent or guardian to enroll in that course.

(3) A person who has been ordered by a court to complete a boating safety course pursuant to paragraph (1) shall submit to the court proof of completion and passage of the course within seven months of the date of his or her conviction. The proof shall be in a form that has been approved by the division and that is capable of being submitted to the court or a state or local agency approved by the division through the United States Postal Service or another certified means of transmission.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.